

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Public Works	(2) MEETING DATE 8/18/2015	(3) CONTACT/PHONE John Diodati, Project Manager/Department Administrator (805) 788-2832	
(4) SUBJECT Discussion and approval of the Proposition 218 Funding Mechanism for the Paso Robles Basin. Districts 1 and 5.			
(5) RECOMMENDED ACTION It is recommended that the Board, acting as the Board of Supervisors for the San Luis Obispo County Flood Control and Water Conservation District (Flood Control District): <ol style="list-style-type: none"> 1. Review and approve the NBS report on the Proposition 218 funding mechanism for the Paso Robles Basin; and 2. Direct staff to return to your Board after Local Agency Formation Commission (LAFCO) proceedings as the Flood Control District with the final parcel tax funding formula in order to initiate the approval process for Sustainable Groundwater Management Act (SGMA) compliance; and 3. Receive an update on the LAFCO proceedings. 			
(6) FUNDING SOURCE(S) N/A	(7) CURRENT YEAR FINANCIAL IMPACT N/A	(8) ANNUAL FINANCIAL IMPACT N/A	(9) BUDGETED? N/A
(10) AGENDA PLACEMENT <input type="checkbox"/> Consent <input type="checkbox"/> Presentation <input type="checkbox"/> Hearing (Time Est. ____) <input checked="" type="checkbox"/> Board Business (Time Est. <u>120 min.</u>)			
(11) EXECUTED DOCUMENTS <input type="checkbox"/> Resolutions <input type="checkbox"/> Contracts <input type="checkbox"/> Ordinances <input checked="" type="checkbox"/> N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: N/A <input type="checkbox"/> 4/5 Vote Required <input checked="" type="checkbox"/> N/A	
(14) LOCATION MAP Attached	(15) BUSINESS IMPACT STATEMENT? No	(16) AGENDA ITEM HISTORY <input type="checkbox"/> N/A Date: 1/27/15 #23; 4/21/15 #26; <div style="text-align: right;">6/2/15 # 24</div>	
(17) ADMINISTRATIVE OFFICE REVIEW David E. Grim			
(18) SUPERVISOR DISTRICT(S) District 1 District 5			

Reference: 15AUG18-BB-1

County of San Luis Obispo



TO: Board of Supervisors

FROM: Public Works

John Diodati, Project Manager/Department Administrator

VIA: Mark Hutchinson, Deputy Director of Public Works

DATE: 8/18/2015

SUBJECT: Discussion and approval of the Proposition 218 Funding Mechanism for the Paso Robles Basin. Districts 1 and 5.

RECOMMENDATION

It is recommended that the Board, acting as the Board of Supervisors for the San Luis Obispo County Flood Control and Water Conservation District (Flood Control District):

1. Review and approve the NBS report on the Proposition 218 funding mechanism for the Paso Robles Basin; and
2. Direct staff to return to your Board after Local Agency Formation Commission (LAFCO) proceedings as the Flood Control District with the final parcel tax funding formula in order to initiate the approval process for Sustainable Groundwater Management Act (SGMA) compliance; and
3. Receive an update on the LAFCO proceedings.

DISCUSSION

Throughout 2014, there was ongoing discussion regarding increased management of the Paso Robles Groundwater Basin (Paso Basin).¹ The primary topics of discussion were: (1) whether the Paso Basin needs increased management; (2) the mechanism for providing such management; and (3) the entity to implement the selected mechanism.

Two stakeholder groups, the Paso Robles Agricultural Alliance for Groundwater Solutions and PRO Water Equity, proposed and supported the formation of a California Water District with a modified Board of Directors.² Assemblyman Katcho Achadjian introduced legislation reflective of this proposal (AB 2453) that became effective on January 1, 2015.³ In addition to providing for a modified Board of Directors, AB 2453 authorizes the Water District to exercise a number of groundwater management

¹ On March 27, 2012, the Board adopted the Paso Robles Groundwater Basin Management Plan pursuant to Water Code Section 10750 *et seq.* (AB 3030).

² In its final iteration, AB 2453 provides that the Board of Directors shall consist of six directors elected by landowners and three directors elected by registered voters.

³ Application must be made by January 1, 2019 (Water Code § 37905(a)).

powers consistent with the terms and conditions set forth therein, subject to approval by LAFCO in accordance with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code Section 56000 *et seq.*) (Cortese-Knox-Hertzberg). Under AB 2453, an affected local agency, such as the Flood Control District, may apply to LAFCO by resolution.⁴

Concurrently, Senator Pavley and Assemblyman Dickinson sponsored a three-bill package (Sustainable Groundwater Management Act or SGMA) creating a statewide system for managing groundwater resources that also became effective on January 1, 2015. The SGMA imposes groundwater management requirements on basins that the Department of Water Resources (DWR) has designated as high- or medium-priority basins pursuant to the California Statewide Groundwater Elevation Monitoring Program (CASGEM). The SGMA permits the State Water Resources Control Board (SWRCB) to designate a high- or medium-priority basin as a “probationary basin” if a Groundwater Sustainability Agency(ies) (GSA) and a Groundwater Sustainability Plan(s) (GSP) for the basin are not established or adopted within certain specified time frames.

More specifically, the SWRCB may designate a high or medium-priority basin as a probationary basin unless one of the following has occurred on or before *June 30, 2017*: (a) a local agency has elected to be a GSA that intends to develop a GSP for the *entire* basin; (b) a collection of local agencies has formed a GSA or prepared agreements to develop one or more GSPs that will collectively serve as a GSP for the *entire* basin; (c) a local agency has submitted an alternative that has been approved or is pending approval by DWR.⁵ In addition, the SWRCB may designate a high- or medium-priority basin as a probationary basin unless one of the following has occurred on or before *January 31, 2022*: (a) a GSA has adopted a GSP for the *entire* basin; (b) a collection of local agencies has adopted GSPs that collectively serve the *entire* basin; (c) DWR has approved an alternative.⁶

It is intended that the Water District formation votes will occur prior to these deadlines to allow the new District to participate in the GSA with other stakeholders.

On January 27, 2015 your Board, acting as the Board of the Flood Control District, directed staff to return with a resolution of application and related material within approximately ninety days. Staff returned to your Board on April 21, 2015 with a LAFCO application that consisted of the following:

1. *Resolution of Application.*
2. *Plan for Services.*
3. *Funding Mechanism.*

At this April meeting, your Board approved the LAFCO application, which started LAFCO’s official review process. On June 25, 2015, LAFCO sent its 30-Day Initial Review Letter to the Public Works Department in which it requested submittal of, among other things, “the Phase II NBS funding report that provides for a more detailed analysis of the revenues and the funding mechanisms to be used to fund the District.” The purpose of the requested action today is to provide LAFCO with the cited Phase II NBS Funding report and to direct staff to return to the Board at the appropriate time to initiate parcel tax proceedings.

⁴ Water Code § 37905(a).

⁵ Water Code § 10735.2(a)(1).

⁶ Water Code § 10735.2(a)(4). For high- or medium-priority basins which DWR has designated in its report entitled California’s Groundwater: Bulletin 118 (Bulletin 118), as may be updated or revised on or before January 1, 2017, as “subject to critical conditions of overdraft,” the GSP deadline is shortened, and the SWRCB may designate such a basin as a probationary basin unless (a), (b) or (c) has occurred on or before *January 31, 2020* (Water Code § 10735.2(a)(2)).

NBS Report

The initial report prepared by NBS dated March 31, 2015 and considered by your Board on April 21, 2015 discussed a number of funding mechanisms, including a tax, an assessment and a fee. At the end of the report, NBS ranked the mechanisms based on feasibility. A parcel tax was ranked first and a property-related fee was ranked second (although significant challenges, including a lack of statutory authority were identified). On June 2, 2015, your Board approved an agreement with NBS for Parcel Tax and Property-Related Fee consulting service. However, during the initial analysis of a property-related fee, it was confirmed that the San Luis Obispo County Flood Control and Water Conservation District Act provides no express authorization for the imposition of a fee for groundwater management.⁷ Therefore, a property-related fee is not a feasible funding mechanism.

The NBS report, attached, outlines the parcel tax approval process and details the rate schedule of the proposed funding, with a target of generating enough revenue for a \$950,000 annual budget with no annual inflation escalator. The formula is based on three factors 1) an “all parcel” rate element levied on all parcels, 2) a land-use rate element levied on single-family residential (SFR), multi-family residential (MFR), Commercial/Government/Industrial, and vacant (as identified in the Assessor’s database), and 3) an acreage based rate element for both non-irrigated and irrigated acreage.

The goal of the funding formula is to develop a reasonable allocation of costs based on the best data available that is simple to understand, accounts for the fact that all parcels in the Paso Basin need to comply with the SGMA, and is representative of the historic pumping within the Paso Basin (agriculture pumps approximately 90% of the groundwater in the Water District boundary, according to the NBS report). After considerable outreach by staff, the following funding formula was developed (and subsequently endorsed by the Paso Basin Advisory Committee at a special meeting on August 3), in order to generate an adequate annual operating budget for SGMA compliance:

ESTIMATED COUNT	RATE ELEMENT	RATE	ANNUAL REVENUE GENERATED	% OF TOTAL
	PER PARCEL			
6,397	Total parcels	\$ 15.00	\$ 95,955.00	10%
	PER UNIT			
3,807	Single Family Residential (SFR) Parcels	\$ 20.00	\$ 76,140.00	8%
309	Multi-Family Residential (MFR) Parcels	\$ 40.00	\$ 12,360.00	1%
124	Commercial/Gov per Parcel	\$ 100.00	\$ 12,400.00	1%
2,157	Vacant per Parcel	\$ 10.00	\$ 21,570.00	2%
				13%
	PER ACRE			
312,977	Non-Irrigated Acres (ALL)	\$ 0.25	\$ 78,244.00	8%
36,390	Irrigated Acres	\$ 18.00	\$ 655,020.00	69%
				77%
	TOTAL		\$ 951,689.00	100%

⁷ Chapter 49 of the Water Code Appendix (see e.g. Section 49-13 authorizing the Board to levy a *tax* or *assessment* to carry out the purposes of the Flood Control District). Proposition 218 does not provide any new authority to an agency to impose a tax, assessment, fee or charge (California Constitution, Article 13D, Section 1).

With this funding formula, a rural resident would pay \$15/year parcel element plus the Single Family Residential (SFR) element of \$20/year plus \$0.25 per acre for non-irrigated land. For example, a 10 acre homeowner with no identified irrigated land would have an annual tax of \$37.50. Another way to look at the annual tax for SFR is that all SFR pays \$35 plus \$0.25 per acre. If identified as having irrigated land on their property, a SFR parcel may also incur the \$18/acre element for those acres being irrigated.

Rangeland, open space and any other property not categorized as irrigated acreage would pay the \$15/year parcel element plus the \$10/year vacant element plus \$0.25 per acre. For example, a 640 acre parcel being utilized as rangeland would have an annual tax of \$185.

Irrigated agriculture would pay the \$15/year parcel element plus the \$10/year vacant element plus \$18 per acre of irrigated land. For example, a 100 acre parcel with 50% of the parcel being utilized for irrigated agriculture would have an annual tax of \$937.50/year.

Another way to look at the formula is to calculate costs on the same size parcel for various types of land use. The following chart shows the impact of the funding formula to SFR, MFR, commercial, rangeland and irrigated agriculture for 10, 25 and 100 acre parcel sizes.

10 Acre Parcel	
	Annual Tax
SFR	\$ 37.50
MFR	\$ 57.50
Commercial	\$ 117.50
Rangeland	\$ 27.50
Irrigated Ag (100% of Acreage Irrigated)	\$ 205.00

25 Acre Parcel	
	Annual Tax
SFR	\$ 41.25
MFR	\$ 61.25
Commercial	\$ 121.25
Rangeland	\$ 31.25
Irrigated Ag (100% of Acreage Irrigated)	\$ 475.00

100 Acre Parcel	
	Annual Tax
SFR	\$ 60.00
MFR	\$ 80.00
Commercial	\$ 140.00
Rangeland	\$ 50.00
Irrigated Ag (100% of Acreage Irrigated)	\$ 1,825.00

It is important to note that stakeholders in the Paso Basin requested “actual” irrigated acres be used instead of the acreage of the entire parcel assigned an Irrigated Agriculture land use code by the Assessor. In other words, stakeholders desire that the Flood Control District obtain the data for each parcel within the Water District identifying how many acres of the parcel are being irrigated and applying the per acre formula to only those acres. This was a challenging request, as the Assessor does not maintain acreage data at the parcel level. Nevertheless, staff researched this request and believes we will be able to incorporate this data by working with the Agricultural Commissioner’s Office and the data they have integrated into GIS imagery. At this time, the estimate of the total gross irrigated acreage – not per parcel - is 36,390 acres. This gross amount of irrigated acres is reasonable to use for developing the funding formula, but by utilizing this method, there is a risk that once the data is compiled and actual irrigated acreage is assigned on a per parcel basis, it could be less than 36,390 acres, which would result in the formula under-funding the target amount of revenue. Staff believes, based on stakeholder feedback, this is an appropriate risk to take and will not result in significant under-funding. Any variances in the per parcel allocation and what the landowner believes they have in irrigated acreage will have to be resolved through an appeal process.

Staff believes the funding formula proposed in the attached NBS report is the most equitable cost allocation, and has the broadest community support at this time.

Water District Boundaries

The LAFCO application approved by your Board in April included a Water District boundary based on the Department of Water Resources (DWR) Bulletin 118 boundary. Areas outside the Fugro boundary were identified as either a negative or positive sphere of influence. Through its workshops, LAFCO has indicated that it is most likely to determine the Water District boundary to be the Fugro boundary. In anticipation of this action, the funding formula was developed using the parcel count within the Fugro boundary. Should LAFCO decide to create the Water District using the DWR Bulletin 118 boundary, the formula may be adjusted to reflect the addition of parcels.

Flood Control District as Lead Agency

Since compliance with the SGMA is mandatory for the Paso Basin, the NBS report calls for the levy of a parcel tax on property owners in the proposed Water District boundary regardless of whether the unincorporated landowners are represented by the Flood Control District or Water District. As demonstrated in the LAFCO application, the cost differential of these two management entities is estimated to be \$25,000 less for the Flood Control District. Additionally, since the Flood Control District is conducting the funding proceedings, and the formation vote and Proposition 218 vote are scheduled to occur on the same day, it makes sense to structure the Proposition 218 proceedings so that the Flood Control District can retain the funding source if it is approved and the Water District is not approved.

Staff is seeking direction on following this process. Otherwise, if the Water District formation fails (and regardless of the funding outcome), the Flood Control District will have to hold a second Proposition 218 in order to secure adequate funding for SGMA compliance. Due to these circumstances, it would be a prudent use of County resources to assure the funding approval process only has to occur once.

Next Steps

If the Board approves the NBS report and directs staff to return after LAFCO proceedings, staff will continue to work with the Assessor, Agricultural Commissioner, County Clerk/Elections Official and NBS in order to prepare for the registered voter parcel tax election. If LAFCO approves the application, LAFCO will inform the Board (as the Board of the County) that a determination has been made that requires a formation and board of directors election to be conducted and will request that the Board direct the County Elections Official to conduct the necessary election.⁸ If this action happens prior to November 3, 2015, staff anticipates the parcel tax election will occur at the same time as the other elections. If so, all three decisions (formation vote, Board of Directors & Prop 218) would be scheduled for March 8, 2016. A draft calendar of the parcel tax process was prepared by the County Elections Official and is attached to this report. The County Elections Official has indicated there are currently 7,049 registered voters in the boundary being considered by LAFCO.

Staff will also need to work with the Agricultural Commissioner's office on obtaining the irrigated acreage assigned to each parcel in the Assessor's database in order to have the final cost allocations for each parcel. Once complete, and after LAFCO final action, staff would return to your Board for the creation of a Flood Control District zone of benefit and initiate the parcel tax proceedings.

⁸ Government Code § 57000(d).

OTHER AGENCY INVOLVEMENT/IMPACT

Other agencies that have worked on the Proposition 218 funding mechanism are as follows: County Clerk, County Assessor, County Counsel, Agricultural Commissioner's Office and the Paso Basin Advisory Committee. A letter of support for the funding formula from the Paso Basin Advisory Committee is attached to this report.

FINANCIAL CONSIDERATIONS

\$350,000 from Flood Control District reserves has been allocated to fund the application process through this fiscal year. There is no direct financial impact related to today's actions.

RESULTS

Approval of the recommended action will allow the Paso Robles Basin Water District Formation Application to be considered by LAFCO in a public hearing setting.

File: CF 340.280.01

Reference: 15AUG18-BB-1

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ATTACHMENTS

1. Vicinity Map
2. NBS Proposition 218 Phase II Report
3. Draft Proposition 218 Funding Calendar
4. Paso Basin Advisory Committee Letter